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HOUSE BILL 769

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY
Jimmie C. Hall

AN ACT

RELATING TO SEX OFFENDER REGISTRATION; REQUIRING PERSONS
CONVICTED OF STALKING A VICTIM UNDER SIXTEEN YEARS OF AGE TO
REGISTER AS SEX OFFENDERS; CLARIFYING A DEFINITION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 29-11A-3 NMSA 1978 (being Laws 1995,
Chapter 106, Section 3, as amended) is amended to read:

"29-11A-3. DEFINITIONS.--As used in the Sex Offender
Registration and Notification Act:

A. "conviction" means a conviction in any court of
competent jurisdiction and includes a deferred sentence, but
does not include a conditional discharge;

B. "institution of higher education" means a:

(1) private or public post-secondary
educational institution;

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1 (2) trade school; or

2 (3) professional school;

3 C. "registration requirement" means any requirement
4 set forth in Section 29-11A-4 NMSA 1978 that requires a sex
5 offender to register, provide information, including a DNA
6 sample, renew, revise or change [his] registration information
7 or provide written notice or disclosure regarding [his] the sex
8 offender's status as a sex offender;

9 D. "sex offender" means a person who:

10 (1) is a resident of New Mexico who is
11 convicted of a sex offense [~~in New Mexico~~] pursuant to state,
12 federal, tribal or military law;

13 (2) changes [his] residence to New Mexico,
14 when that person has been convicted of a sex offense [~~in~~
15 ~~another state~~] pursuant to state, federal, tribal or military
16 law;

17 [~~(3) is a resident of New Mexico who is~~
18 ~~convicted of a sex offense pursuant to federal, tribal or~~
19 ~~military law;~~

20 ~~(4)] (3) does not have an established~~
21 residence in New Mexico, but lives in a shelter, halfway house
22 or transitional living facility or stays in multiple locations
23 in New Mexico and who has been convicted of a sex offense [~~in~~
24 ~~New Mexico or any other state~~] pursuant to state, federal,
25 tribal or military law; or

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1 [~~5~~] (4) is a resident of another state and
2 who has been convicted of a sex offense pursuant to state,
3 federal, tribal or military law, but who is:

4 (a) employed full time or part time in
5 New Mexico for a period of time exceeding fourteen days or for
6 an aggregate period of time exceeding thirty days during any
7 calendar year, including any employment or vocation, whether
8 financially compensated, volunteered or for the purpose of
9 government or educational benefit; or

10 (b) enrolled on a full-time or part-time
11 basis in a private or public school or an institution of higher
12 education in New Mexico; and

13 E. "sex offense" means:

14 (1) criminal sexual penetration in the first,
15 second, third or fourth degree, as provided in Section 30-9-11
16 NMSA 1978;

17 (2) criminal sexual contact in the fourth
18 degree, as provided in Section 30-9-12 NMSA 1978;

19 (3) criminal sexual contact of a minor in the
20 second, third or fourth degree, as provided in Section
21 30-9-13 NMSA 1978;

22 (4) sexual exploitation of children, as
23 provided in Section 30-6A-3 NMSA 1978;

24 (5) sexual exploitation of children by
25 prostitution, as provided in Section 30-6A-4 NMSA 1978;

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1 (6) kidnapping, as provided in Section
2 30-4-1 NMSA 1978, when the victim is less than eighteen years
3 of age and the offender is not a parent of the victim;

4 (7) false imprisonment, as provided in Section
5 30-4-3 NMSA 1978, when the victim is less than eighteen years
6 of age and the offender is not a parent of the victim;

7 (8) aggravated stalking when the victim is
8 less than sixteen years of age, as provided in Section
9 30-3A-3.1 NMSA 1978;

10 [~~8~~] (9) aggravated indecent exposure, as
11 provided in Section 30-9-14.3 NMSA 1978;

12 [~~9~~] (10) enticement of child, as provided in
13 Section 30-9-1 NMSA 1978;

14 [~~10~~] (11) incest, as provided in Section
15 30-10-3 NMSA 1978, when the victim is less than eighteen years
16 of age;

17 [~~11~~] (12) solicitation to commit criminal
18 sexual contact of a minor in the second, third or fourth
19 degree, as provided in Sections 30-9-13 and 30-28-3 NMSA 1978;
20 or

21 [~~12~~] (13) attempt to commit any of the sex
22 offenses set forth in Paragraphs (1) through [(10)] (11) of
23 this subsection, as provided in Section 30-28-1 NMSA 1978."

24 Section 2. Section 29-11A-5 NMSA 1978 (being Laws 1995,
25 Chapter 106, Section 5, as amended) is amended to read:

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1 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--
2 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--PARTICIPATION IN
3 THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

4 A. A county sheriff shall maintain a local registry
5 of sex offenders in [~~his~~] the sheriff's jurisdiction required
6 to register pursuant to the provisions of the Sex Offender
7 Registration and Notification Act.

8 B. The county sheriff shall forward:

9 (1) registration information obtained from sex
10 offenders to the department of public safety. The initial
11 registration information and any new registration information
12 subsequently obtained from a sex offender shall be forwarded by
13 the county sheriff no later than ten working days after the
14 information is obtained from a sex offender. If the department
15 of public safety receives information regarding a sex offender
16 from a governmental entity other than a county sheriff, the
17 department shall send that information to the sheriff for the
18 county in which the sex offender resides; and

19 (2) samples of DNA obtained from sex offenders
20 to the administrative center for the sex offender DNA
21 identification system pursuant to the provisions of the DNA
22 Identification Act.

23 C. The department of public safety shall maintain a
24 central registry of sex offenders required to register pursuant
25 to the provisions of the Sex Offender Registration and

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1 Notification Act. The department shall participate in the
2 national sex offender registry administered by the United
3 States department of justice. The department shall send
4 conviction information and fingerprints for all sex offenders
5 registered in New Mexico to the national sex offender registry
6 administered by the United States department of justice and to
7 the federal bureau of investigation.

8 D. The department of public safety shall retain
9 registration information regarding a sex offender convicted for
10 any of the following sex offenses for the entirety of [~~his~~] the
11 sex offender's natural life:

12 (1) criminal sexual penetration in the first,
13 second or third degree, as provided in Section 30-9-11 NMSA
14 1978;

15 (2) criminal sexual contact of a minor in the
16 second, third or fourth degree, as provided in Section
17 30-9-13 NMSA 1978;

18 (3) sexual exploitation of children, as
19 provided in Section 30-6A-3 NMSA 1978;

20 (4) kidnapping, as provided in Section
21 30-4-1 NMSA 1978, when the victim is less than eighteen years
22 of age and the offender is not a parent of the victim;

23 (5) criminal sexual contact in the fourth
24 degree, as provided in Section 30-9-12 NMSA 1978; or

25 (6) attempt to commit any of the sex offenses

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1 set forth in Paragraphs (1) through (5) of this subsection, as
2 provided in Section 30-28-1 NMSA 1978.

3 E. The department of public safety shall retain
4 registration information regarding a sex offender convicted for
5 the following offenses for a period of ten years following the
6 sex offender's conviction, release from prison or release from
7 probation or parole, whichever occurs later:

8 (1) criminal sexual penetration in the fourth
9 degree, as provided in Section 30-9-11 NMSA 1978;

10 (2) sexual exploitation of children by
11 prostitution, as provided in Section 30-6A-4 NMSA 1978;

12 (3) false imprisonment, as provided in Section
13 30-4-3 NMSA 1978, when the victim is less than eighteen years
14 of age and the offender is not a parent of the victim;

15 (4) aggravated stalking when the victim is
16 less than sixteen years of age, as provided in Section
17 30-3A-3.1 NMSA 1978;

18 [~~(4)~~] (5) aggravated indecent exposure, as
19 provided in Section 30-9-14.3 NMSA 1978;

20 [~~(5)~~] (6) enticement of child, as provided in
21 Section 30-9-1 NMSA 1978;

22 [~~(6)~~] (7) incest, as provided in Section
23 30-10-3 NMSA 1978, when the victim is less than eighteen years
24 of age;

25 [~~(7)~~] (8) solicitation to commit criminal

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1 sexual contact of a minor in the second, third or fourth
2 degree, as provided in Sections 30-9-13 and 30-28-3 NMSA 1978;
3 or

4 [~~(8)~~] (9) attempt to commit any of the sex
5 offenses set forth in Paragraphs (1) through [~~(6)~~] (7) of this
6 subsection, as provided in Section 30-28-1 NMSA 1978.

7 F. Notwithstanding the provisions of Subsection E
8 of this section, if a sex offender is convicted a second or
9 subsequent time for a sex offense set forth in that subsection,
10 the department of public safety shall retain information
11 regarding the sex offender for the entirety of the sex
12 offender's natural life.

13 G. The department of public safety shall adopt
14 rules necessary to carry out the provisions of the Sex Offender
15 Registration and Notification Act. Rules necessary for the
16 collection of DNA samples and the administration and operation
17 of the sex offender DNA identification system shall be adopted
18 by the DNA identification system oversight committee pursuant
19 to the provisions of the DNA Identification Act."

20 Section 3. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2007.